

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

ARBITRATION PETITION NO.330 OF 2005

...

Mr.Sudhir Jhunjhunwala & Anr. ...Petitioners

v/s.

Cosmos Co.op. Bank Ltd. ...Respondent

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Mr.S.A.Diwan i/b M/s. Nankani & Associates for the
Petitioners.

Mr.D.H.Mehta i/b N.N. Shah for the Respondent.

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CORAM: D.K.DESHMUKH, J.

DATED: 11TH OCTOBER, 2005

P.C.:

1. By consent of parties, petition is disposed of in following terms:

i. The award impugned in the petition is set aside. Disputes between the parties are referred to the same arbitrator to be decided in accordance with law, after granting an opportunity of being heard to both the sides.

ii. The Respondent/bank, within a period of one week from today, shall file an undertaking that in case the Petitioner pays an amount of Rs.4 lakh to the Respondent/bank it will be accepted by the Respondent/bank subject to the result of the arbitration proceedings and subject to the condition that the amount shall be brought back by the Respondent if so directed by the arbitrator and on such terms and conditions as may be directed by the arbitrator.

iii. Undertaking shall be submitted with due notice

to the Petitioner.

iv. Within a period of three weeks from the date on which the undertaking is submitted by the Respondent/bank, the Petitioner shall pay an amount of Rs.4 lakh to the Respondent/bank. This payment is condition precedent.

v. Attachment which is levied by the Respondent/bank on the property of the Petitioner shall continue for a period of four weeks from today, and on the amount as directed above being paid by the Petitioner to the Respondent/bank, the attachment will automatically come to an end.

vi. Petition disposed of.

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